

UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF NEW YORK

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In re:

MIGUEL J. MERCADO  
DAWN M. MERCADO

Debtor(s).

Chapter 7  
Case no. 12-13810K

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**NOTICE OF MOTION**

**MOVANT:** Mark J. Schlant, As Chapter 7 Trustee

**DATE, TIME &  
LOCATION OF  
HEARING:**

April 17, 2013; 10:00 a.m.  
U.S. Bankruptcy Court  
Olympic Towers  
300 Pearl Street, Suite 350  
Part I Courtroom, 3<sup>rd</sup> Floor  
Buffalo, New York 14202

**RELIEF REQUESTED:** An Order directing that the debtor(s) turn over certain assets and/or information described in the attached motion to the trustee, and extending the time in which the trustee or the U.S. Trustee may bring an objection to the debtor(s)'s discharge pursuant to 11 U.S.C. §727, or the U.S. Trustee or the Court may bring a motion to dismiss this case pursuant to 11 U.S.C. §707(b), together with such other and further relief as the Court deems just and proper.

**SUPPORTING PAPERS:** Motion dated March 29, 2013.

Dated: March 29, 2013  
Buffalo, New York

ZDARSKY, SAWICKI & AGOSTINELLI LLP  
Attorneys for the Chapter 7 Trustee  
s/ Mark J. Schlant

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By: Mark J. Schlant  
404 Cathedral Place  
298 Main Street  
Buffalo, New York 14202  
Tel: (716) 855-3200

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**MOTION**

MARK J. SCHLANT, as Chapter 7 Trustee, by his attorneys Zdarsky, Sawicki & Agosintelli LLP, hereby respectfully represents:

1. He is the duly appointed, qualified and acting Chapter 7 Trustee herein.
2. The debtors' estate includes an interest in real property at 2003 Broadway in Buffalo, New York, which is not the debtors' residence. Initially the debtors listed among their debts one mortgage on that property, and claimed no exemptions. The trustee received an offer for the property from a party who would purchase it subject to all liens, and filed notice of his intent to sell the property pursuant to that offer. Thereafter, the debtors filed an amendment to Schedule C to claim their remaining wild card exemption as to this property. The trustee notified the party which made the pending offer, and he indicated that he might be willing to increase the offer in light of the debtors' amendment, but would have to inspect the interior of the property first. The trustee requested of the debtors through their attorney that they arrange to give the prospective purchaser access to the interior of the property, but the debtors have not yet done so. Meanwhile the debtors filed an additional amendment to Schedule D, to list two additional mortgages on the property. The trustee notified the potential purchaser of the amendment adding the mortgages, and inquired whether he remained interested in bidding for the property, but has not yet received a response.

3. The trustee submits that in the event that there remains a party interested in bidding for the property, the debtors should be ordered to give that party access to the property for purposes of inspection, and should turn over to the trustee the search, survey and tax bills with respect to the property should he request them in the event of a sale, and that the debtors should not be discharged until they have complied.

**WHEREFORE**, the Trustee requests an Order directing that the debtor(s) turn over certain assets and/or information described above to the trustee, and extending the time in which the trustee or the U.S. Trustee may bring an objection to the debtor(s)'s discharge pursuant to 11 U.S.C. §727, or the U.S. Trustee or the Court may bring a motion to dismiss this case pursuant to 11 U.S.C. §707(b), together with such other and further relief as the Court deems just and proper.

Dated: March 29, 2013  
Buffalo, New York

Yours, etc.

ZDARSKY, SAWICKI & AGOSTINELLI LLP  
Attorneys for the Chapter 7 Trustee

s/ Mark J. Schlant  
By: Mark J. Schlant  
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